

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES and STATE OF TEXAS
ex rel. DANIEL W. ELLIOTT, M.D. and
LISA A. MINSLOFF, M.D.,

Plaintiffs,

v.

SOUTHEAST TEXAS MEDICAL
ASSOCIATES, LLP et al.,

Defendants.

No. 1:23-CV-00329-MJT

DEMAND FOR JURY TRIAL

JOINT STATUS REPORT

Pursuant to the Court’s December 27, 2024 Order (Dkt. 142), the parties jointly submit this Status Report.

1. Settlement: On March 12, 2025, Relators, the United States, the State of Texas, SETMA, OnPoint, and all individual defendant physicians (other than Dr. James Holly) executed a Settlement Agreement that resolves their disputes in this litigation. SETMA, OnPoint, and the settling physicians are collectively referred to as the “Settling Defendants,” and, together with Relators, the United States, and the State of Texas, the “Settling Parties.”

Per the Settlement Agreement, payment is due 30 days from March 12, 2025. Upon receipt of payment, the Settling Parties will file a Joint Stipulation of Dismissal of Relators’ claims against the Settling Defendants. After that filing, Relators, Dr. James Holly, and Baptist Hospitals of Southeast Texas (“Baptist”) will be the only remaining parties to this litigation (the “Remaining Parties”).

2. Motion to Dismiss: At the Court’s direction, in March 2024, all defendants withdrew then-pending fully briefed motions to dismiss the Complaint in its entirety pursuant to Fed. R. Civ. P.

12(b)(6). Those motions were not decided and withdrawal was without prejudice to any defendant's ability to refile those motions if and when the settlement talks described in Paragraph (1) above concluded. (Dkt. 134.) At the time the motions to dismiss were withdrawn, discovery had been stayed pursuant to an Order Continuing Temporary Stay of Discovery. (Dkt. 132.)

Now that the Settling Parties have an approved settlement, the Remaining Parties will confer and present the Court, no later than March 28, 2025, with a proposed briefing schedule for: (a) motions to dismiss the Complaint and (b) motions to continue the Temporary Stay of Discovery, which Relators oppose.

3. Discovery: The parties engaged in limited initial discovery in the Fall of 2023. In accordance with Court's Order Continuing Temporary Stay of Discovery, dated January 23, 2024 (Dkt. 128), the parties have not conducted any discovery since the Stay Order was entered.

As set forth above, the Remaining Parties disagree about whether further discovery should proceed at this juncture.

- **Relators' position:** Relators believe discovery should proceed in this matter, regardless of any to-be-filed motions to dismiss. *See* L.R. CV-26(a) (unless there is a court order to the contrary, "a party is not excused from responding to discovery because there are pending motions to dismiss"). Relators have waited more than a year to pursue discovery against Baptist and Dr. Holly. Due to the finalization of the Settlement Agreement, there is no reason to delay the case any longer. Relators therefore oppose any extension of the Stay Order.
- **Baptist and Dr. Holly's position:** Baptist and Dr. Holly (the "Remaining Defendants") believe that the stay of discovery should be extended, consistent with Fifth Circuit law, so as to permit this Court an opportunity to consider the potentially dispositive motions to dismiss the remaining claims. *See United States ex rel. Grubbs v. Kanneganti*, 565 F.3d 180, 185 (5th Cir. 2009) (a motion to dismiss False Claims Act complaint is intended to serve "as a gatekeeper to discovery"). The Remaining Defendants waited patiently for over a year for Relators to finalize the Settlement Agreement and respectfully submit there is no prejudice to requiring Relators to now wait a far shorter period of time so as to permit this Court an opportunity to consider the potentially dispositive motions without the parties – and third parties -- having to endure the costs of burdens of additional discovery.

Dated: March 14, 2025

Respectfully submitted,

/s/ Joshua M. Russ

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed on March 14, 2025 through the ECF system, and will thereby be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Allison N. Cook
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